with disabilities out of the education system. Even in our *Sarva Shiksha Abiyaan,* again, if I am not slightly going away from here, it has been an important component in one of the flagship programmes and in various schools we have been sensitising teachers not to segregate these children and to ensure that these children are actually mainstreamed into education after the little support which is required and is needed to be given to them. But, again, Sir, I would once again plead, through this House, to the parents and to everybody else that it is very essential that these children get the necessary support even at home which is very important for these people.

Pending cases in subordinate courts

*182. SHRIMATI SHOBHANA BHARTIA: ††
SHRI VIJAY JAWAHARLAL DARDA:

Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether Government is aware that more than three crore cases are pending in various subordinate courts across the country;

(b) if so, the facts and details thereof;

(c) whether the factors responsible for such pendency in subordinate courts have ever been assessed;

(d) if so, the details thereof; and

(e) the steps taken/directions issued by Government to speed up disposal of cases in subordinate courts?

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): (a) to (e) A Statement is laid on the Table of the House.

Statement

(a) and (b) As per the information available, about 2.52 crore cases are pending in the Subordinate Courts in the country. A Statement indicating the number of cases pending before the Subordinate Courts, State-wise, is enclosed as Statement-I (*See* below).

(c) and (d) A Statement showing the factors responsible for such pendency of cases is enclosed as Statement-II (*See* below).

(e) Time bound disposal of cases is within the exclusive domain of the judiciary. However, in order to facilitate speedy disposal of cases, Government has initiated a number of measures. Government is implementing a scheme for Development of Infrastructural Facilities for Judiciary under which financial assistance is provided to the State Governments and Union Territory Administrations for construction of court buildings and residential accommodation for Judges and Judicial Officers. Government is also implementing a scheme for computerization of District & Subordinate Courts, Fast Track Courts have been set up for speedy disposal of long pending Sessions cases and the cases involving under-trials in jails. Alternative modes of disposal including mediation, negotiation and arbitration have been encouraged. Some legislative measures have also been introduced for improvement in judicial procedure and for expediting disposal of civil and criminal cases in courts.

††The question was actually asked on the floor of the House by Shri Shivanand Tiwari.

Statement-I

Indicating the pendency of cases in Subordinate Courts

Sl.No.	Name of States/UTs.	As on	Civil cases	Criminal cases	Total pendency
1	2	3	4	5	6
1	Andhra Pradesh	30.6.08	471500	486776	958276
2	Arunachal Pradesh	31.12.07	461	4828	5289
3	Assam	30.6.08	77003	162524	239527
4	Bihar	31.12.07	252874	1120549	1373423
5	Chhattisgarh	30.6.08	51144	214296	265440
6	Goa	31.12.07	18750	15181	33931
7	Gujarat	31.12.07	728305	1691747	2420052
8	Haryana	30.6.08	223339	339998	563337
9	H P	31.12.07	62262	80648	142910
10	J&K	30.6.08	64118	103680	167798
11	Jharkhand	30.6.08	44968	222040	267008
12	Karnataka	30.6.08	567548	570097	1137645
13	Kerala	30.6.08	376220	588122	964342
14	M.P.	30.6.08	204015	861774	1065789
15	Maharashtra	31.12.07	372625	3073157	3445782
16	Manipur	30.6.08	3012	3430	6442
17	Meghalaya	30.6.08	3928	8116	12044
18	Mizoram	30.9.07	1562	4576	6138
19	Nagaland	31.12.07	1799	3566	5365
20	Orissa	30.6.08	185680	848132	1033812
21	Punjab	30.6.08	276755	312866	589621
22	Rajasthan	30.6.07	300507	879827	1180334
23	Sikkim	30.6.08	347	782	1129
24	Tamil Nadu	30.6.08	513901	431518	945419
25	Tripura	31.12.07	6146	30557	36703
26	Uttar Pradesh	30.6.08	1238175	3750568	4988743
27	Uttarakhand	30.6.08	32499	124771	157270
28	West Bengal	31.12.07	496463	1698168	2194631
29	A & N Island	31.12.05	1291	46385	47676

1	2	3	4	5	6
30	Chandigarh	30.6.08	20464	75886	96350
31	D & N Haveli	30/6/04	550	2457	3007
32	Daman & Diu	30/6/04	752	860	1612
33	Delhi	31/12/06	141737	718602	860339
34	Lakshadweep	31.12.07	91	107	198
35	Pondicherry	30.6.08	13678	9125	22803
	Total :		6754469	18485716	25240185

Statement-II

Factors responsible for cases pending in courts

Among others, following reports of the various committees and Law Commission of India have highlighted the causes of pendency of cases in courts:-

i. Law Commission of India (1958): "The fourteenth Report on Reform of Judicial Administration".

ii. Government of India (1972): "Report of High Court Arrears Committee".

iii. Law Commission of India (1979): "The Seventy Ninth Report on delays and arrears in High Courts and other appellate courts."

iv. Government of India (1990): "Report of the Arrears Committee (Malimath Committee Report)".

Over all, the following 29 factors have been identified as leading to accumulation of arrears:

i. Population and Litigation Explosion.

ii. Granting of unnecessary adjournments.

iii. Lack of priority of disposal of old cases.

iv. Additional burden on account of Election Petitions.

v. Accumulation of First appeals.

vi. Continuance of the ordinary original civil jurisdiction in some of the High Courts.

vii. Inadequacy of Judge strength.

viii. Delays in filling up of vacancies in the High Courts.

ix. Inadequacy of staff attached to the High Courts.

x. Unsatisfactory appointment of judges.

xi. Inadequacy of accommodation.

xii. Failure to provide adequate forums of appeal against quasi judicial orders.

xiii. Inordinate concentration of work in the hands of some members of the Bar.

xiv. Lack of Punctuality of judges.

xv. Civil Revisions - Indiscriminate exercise of jurisdiction.

xvi. Second Appeals- ignoring the limitations on exercise of jurisdiction.

xvii. Long arguments and prolix judgments.

xviii. Unsatisfactory selection of Government Counsel.

xix. Lawyers not appearing in courts due to strikes etc.

xx. Hasty and imperfect legislation.

xxi. Plurality of appeals and hearing by Division Bench.

xxii. Inordinate delay in the supply of certified copies of judgments/orders.

xxiii. Indiscriminate resort to writ jurisdiction and PIL.

xxiv. Letters Patent Appeals.

xxv. Inadequacy in classification and grouping of cases.

xxvi. Constitution Benches and their frequent changes.

xxvii. Indiscriminate closure of courts.

xxviii. Appointment of sitting judges as Commissions of Inquiry.

xxix. Printing of Paper Book in Criminal matters.

SHRIMATI SHOBHANA BHARTIA: Sir, there are over three crore cases pending in the country. That means over ten crore people are actually waiting for justice because each case involves at least two to three individuals. It is a very alarming situation, Sir, and the hon. Minister has listed several measures that he says may be responsible for things to be the way they are and what he plans to do. I want to ask him a few specific queries. There are several categories of cases and one of the largest ones being of cheques bouncing which are actually clogging the courts. There are over 40 lakh cases which are pending today of actually bouncing cheques. Is the Government looking at special courts that take the pressure off the subordinate courts? Say for instance, the Law Commission had recommended setting up a special court for the backlog for cheque bouncing under Section 148. Similarly, Sir, with regard to the Lok Adalats, after so many years of our legislation we still do not have permanent Lok Adalats all across the country and even so the ones that are there are actually dealing with petty cases like vehicular accidents or petty fights. So, what is the Government planning to do to explore and more effectively implement alternative mechanisms for redressal of these grievances?

SHRI H.R. BHARDWAJ: Hon. Chairman, Sir, I entirely agree with the hon. Member that there has been a docket explosion in the country, pendency has increased and we are grappling with the problem of pendency. There are two issues which the hon. Member has drawn the attention of the House. The first one is with regard to cases of cheque bounce under Section 138. This law was tightened so that people should not issue cheques when there is no balance in their account. But, of late, it has been found that this measure has harmed the system more than causing any good to it. So, there is a re-thinking going on into this. Sir, even the Supreme Court has suggested that there should be a special mechanism to deal with these kinds of cases and we are thinking of doing something in this direction. We are aware of this problem and some solution is being found to this. Sir, since the Supreme Court has made some suggestions, we would like to look into those suggestions as early as possible.

Sir, Lok Adalat, as you know, was not a statutory mechanism until I piloted a Bill in 1987 under the National Legal Services Act and later on it was amended in 90s by the successor Government to provide mechanism for Lok Adalat on statutory basis. As the name suggests, it is not intended that the Lok Adalat should become a substitute to the normal procedure court under the Cr.P.C. or the C.P.C. We inherited the Common Law System in India and the Majesty of procedures of the C.P.C. and the Cr.P.C. It was also examined by the First Law Commission by a very eminent Attorney General, Justice Seatalvad. He said, 'We should not lose this whole edifice. We should try to improve upon it.' During Justice Bhagwati's time, he said, 'we will start voluntary conciliation methods in Lok Adalats.' So, first, we took up insurance cases. We have brought some parties fighting insurance cases and got them settled. These are conciliatory methods which we started to augment the regular courts. But the real crux of the matter is, there is a docket explosion in the country but there is no matching explosion of courts and judicial manpower. Ours is a huge country with 21 High Courts which have the power of superintendence and control over trial courts and the State Governments. We thought that it is not possible to improve 100 per cent solution, unless a joint effort is made by all concerned. So, I started this in 1985 at a joint conference of Chief Ministers and the Chief Justices and a resolution was passed to tackle this problem. We started with a joint effort of improving judicial infrastructure on 50:50 basis and improvement in judicial manpower. The Law Commission, headed by Shri Dhirubhai Desai, gave a Report of improving the judicial manpower as is available in other civilized societies. Sir, a lot of measures have since then been started. The legal education programme, legal training programme, etc., have been started. But, as we are a vast society, vast country and we have to make vast efforts to see that we have a very, very up-to-date judiciary. But, unfortunately, that kind of funds has not been provided. The Vajpayee Government provided money for the Fast Tract Courts for five years for trial of Sessions Court on priority basis. Thereafter, we found that it is a good measure and I have extended that very scheme till 2010. And, I am very happy to inform that these Fast Track Courts, with a small amount of money of about Rs. 500 crores to Rs. 600 crores we have been able to reduce 22 lakh cases of Sessions Court. So, if the resources are provided, judicial manpower is provided, obviously, this can be reduced.

In the Second Joint Conference in 1993, States have given some promises. As recently as 2005 or 2006, the States promised that they will fiil-in the vacancies in Trial Courts and will provide more. I am very happy to tell you that the judicial infrastructure has tremendously improved in the country. Last month, we gave laptops and computers to every court in the country. Now, the electronic devices are helping the courts.

SHRIMATI SHOBHANA BHARTIA: The Government says that it is providing more funds and is setting up more infrastructures, including, enabling the courts with the help of IT. My question is this. In spite of allocating more funds and in spite of sanctioning a greater Bench strength — because the Judiciary says that it needs almost double the strength — in the Allahabad High Court alone, Sir, 84 posts of judges, which have actually been sanctioned by the Government, are lying vacant. I know that it is not within the purview of the Government, but what action the hon. Minister plans to take. There is also a co-relation. If you see the number of pending cases in Allahabad, it is one of the highest in the country because there is a shortfall of 84 judges; and, also there is no time-bound

programme for inducting them. What is the reason for that? Why is it so that even after sanctioning the strength they are unable to engage the judges?

SHRI H.R. BHARDWAJ: Sir, the hon. Member is very right. The Allahabad courts tops in arrears at all the levels in the Judiciary, whether it is in the subordinate courts or in the High Court. But it is one of the top-ranking courts in the country. The sanctioned strength of judges for the Allahabad High Court is 160. But the problem is that they are not making recommendations for filling the vacancies. The proposals in the pipeline, which at the moment are with me, are for only 22 judges. At the moment, 73 judges are working there. So, even if I add these 22 to their working strength, it would still leave 75 posts vacant. So, the proposals have to come from the High Court to the State Government and, then, to me. But there is a lack of concern. ...*(Interruptions)*... This is a very serious matter. We have formulated a plan of action. The President of India has sanctioned that all concerned should make their recommendations within a timeframe. Only the Central Government follows the timeframe. The State Governments or the High Courts do not follow the timeframe. They keep the proposals. The result is, the High Courts, which need to augment their strength quickly, are not getting their judges properly. Consequently, it adds to the arrears. But in a federal structure, like, India, we are politely issuing reminders to them. We are even personally contacting them. And, now, I have 22 proposals from UP. And, I am expediting them.

डा. (श्रीमती) नजमा ए. हेपतुल्ला: सर, जैसा कि इन सवालों में पूछा गया कि तीन करोड़ केसेज़ पेंडिंग हैं। अलग-अलग स्टेट्स से उनके यहां हाई कोर्ट की बेंचेज़ खोले जाने की बहुत बार डिमांड्स हुई हैं। मैं खास तौर पर भोपाल की बात करूंगी, जो कि मध्य प्रदेश का कैपिटल सिटी है। मध्य प्रदेश हाई कोर्ट जबलपुर में है तथा इसकी बेंच इंदौर में है। भोपाल में जो एक बेंच खोलने की उनकी डिमांड है, सरकार उस पर ध्यान क्यों नहीं देती? आपने जो केसेज़ की बात की और पेंडिंग केसेज़ की बात की, उस पर मैं दो बातें कहना चाहती हूं। जो डिमांड्स आप भेजते हैं - मुम्बई हाई कोर्ट के एक सीनियर एडवोकेट ने बताया कि अगर एक चपरासी की पोस्ट भी बढ़ानी होती है तो उसके लिए दिल्ली से इजाजत मांगनी पड़ती है। क्या यह बात सही है? मेरा अपना तजुर्बा है कि महाराष्ट्र में एक मामूली-सा केस Long Causes Court में चला गया तो इसमें 15 साल लगे। डिवीजन के उस केस में, जिस पर कोई डिस्प्यूट नहीं था, उसमें 15 साल लगे, क्योंकि वहां जज साहब के पास इतने केसेज़ थे कि इसके लिए उनके पास टाइम ही नहीं था। इतने उनके ऊपर केसिस थे। तो अगर दूसरे स्टेट से benches खोलने की कोई डिमांड आती है, तो आप खोलिए। इतने lawyers जो बेकार फिर रहे हैं, इससे उनको नौकरी मिल सकती है, unemployment की problem solve हो सकती। मुझे लगता है कि अगर आप इस पर थोड़ा ध्यान दें, तो यह हो सकेगा।

SHRI H.R. BHARDWAJ: Mr. Chairman, Sir, I have very high regards for the hon. Member, but, I think she is not doing that much study as she was doing earlier. I want to update her knowledge. The benches of High Courts are decided ...*(Interruptions)*... Why are you coming between me and her? ...*(Interruptions)*... I am replying to her. She had been my Deputy Chairman and she is also a good friend of mine.

Sir, the policy for setting up of a bench is very clear. The Central Government has to obtain presidential, order for setting up a bench. The hon. Minister, Shri A.R. Antulay, is here. When he wanted to set up a bench, really and sincerely at Aurangabad, we did so. But, now, at the moment, we do not have any proposal for opening a bench in Maharashtra. ...*(Interruptions)*...

Sir, I now come to Madhya Pradesh. I remained a Member of Parliament from Madhya Pradesh for 24 years. There were two demands from there. One was to have a bench of the Jabalpur court at Raipur or Bilaspur, and to have another bench in the city of Bhopal. She knows - because she comes from Bhopal — that at the time of State Reorganisation some promises were made by the leaders about Cooch Behar. This area of Bhopal was, actually, not the capital. Once it was made the capital, there was a compromise between leaders that High Court will be kept in Jabalpur. So, Jabalpur people have now nothing except the High Court there. So, they resist over shifting it. I have been a supporter of having a bench at Bhopal because it is the capital. I had set up the National Judicial Academy there. It is the most powerful institution in Bhopal. There is another good addition, that is, the National Law School. But, there is an opposition from Jabalpur, which still remains a part of Madhya Pradesh. There is a bench at Holkar State in Indore and there is another bench at Indore since the Scindia days. So, within the State, there is a division as to where the bench should be. No Chief Minister, I want to remind you, neither the former Chief Minister, who is my friend, nor even Shri Shivraj Singh Chouhan, has been able to put across a proposal for a bench in Bhopal. I request you to persuade them; I will be the happiest person to get a presidential notification issued. The Tamil Nadu Chief Minister wanted it. The first bench opened by us was at Madurai. I wanted to give a bench to West Bengal, but, there is opposition to it from within. It is for the States to pursue this policy.

One more question was put that every case comes to Delhi. A high court is funded by the Consolidated Fund of that State. We have no interference in that. Similarly, all sanctions are given by the States in respect of the high courts. The Central Government only deals with appointment of high court judges. The Mumbai High Court and the Madhya Pradesh High Court have the best judges. As a matter of fact, these are the two States where there is no complaint and dockets are also well under control. The Maharashtra and Madhya Pradesh Courts are the best administered courts. The problem lies in Bihar and Uttar Pradesh. We are trying to see that it improves.

SHRI SHANTARAM LAXMAN NAIK: Sir, the hon. Minister has listed out 29 factors which lead to accumulation of arrears. He has given an exhaustive list. But, one real factor which causes delay is the long judgements given to express one simple proposition of law. Therefore, the lawyers have to take hours together to explain what that proposition of law is. This is the single-most factor for the delay in Supreme Court and High Courts. Will the hon. Minister do something about this and accept that this is one of the factors that cause delay?

SHRI H.R. BHARDWAJ: Sir, I am again very sorry to say that I have no powers to tell the Judges that you write short judgements or write this or that. This is a matter for the Judge to decide. As a matter of fact, when a Judge writes a judgement, it is he and his judicial conscience alone that dictates the judgement, and this is called conviction. So, judicial conviction alone forms the part of judgement, and, I, as a Minister, cannot whisper even about what he writes and I cannot even find out what he writes and when he writes. These are all internal matters of functioning of independent courts where it is left to them, and they know their job very well.

श्री अवतार सिंह करीमपुरी: सभापति जी, माननीय मंत्री जी ने जो 29 फैक्टर्स बताए हैं, उनमें एक फैक्टर है lack of punctuality of Judges. मैं आपके माध्यम से मंत्री जी से यह जानना चाहता हूं कि who is the authority, जो Judges को punctual कर सके। क्या सरकार की तरफ से इस दिशा में कोई efforts हो सकते हैं या इसमें भी ये sorry ही कहेंगे। मेरा दूसरा सवाल यह है कि ...(**व्यवधान**)...

श्री सभापति: आप एक ही सवाल पूछिए।

श्री अवतार सिंह करीमपुरी: सर, मैं एक ही सवाल पूछ रहा हूं। मंत्री जी ने जो 29 फैक्टर्स गिनाए हैं, उनमें जो lack of punctuality of Judges का फैक्टर है, मैं मंत्री जी से जानना चाहता हूं कि who is the authority, जो Judges को punctual कर सके और क्या कोई प्रपोज़ल इनके विचाराधीन है, जिसके माध्यम से जो इतने pending cases पड़े हैं, उनको कुछ time-bound किया जा सके, कोई टारगेट फिक्स कर लिया जाए कि इतने समय में इनका disposal करना है।

SHRI H.R. BHARDWAJ: Sir, this is a quest for improvement. The judicial reforms are going on for years in the successive Governments. I have continuously taken up this issue with the courts in the administrative side. When a Judge comes to the court, it should be exactly at dot 10.00 a.m. That is the time of the court. This is like we in Parliament follow the clock punctually, and I had only one miss in my whole career of 26 years in Parliament; and I will never, never repeat it. Similarly, the Judges do care that they should assemble in court well before the court timings. ...*(Interruptions)*...

SHRIMATI BRINDA KARAT: Sir, who is the authority? He is asking, who is the authority? वह यह जानना चाहते हैं।

श्री हंसराज भारद्वाज: वृंदा जी, आपको बीच में नहीं बोलना चाहिए ...(**व्यवधान**)...

MR. CHAIRMAN: Let the hon. Minister complete the answer. ...*(Interruptions)*... Please go ahead. ...*(Interruptions)*...

SHRI H.R. BHARDWAJ: Can she disturb me like this? Please don't disturb. The authority in the court is the Judiciary, the Chief Justice and the Head of that institution. There is no outside authority. As far as Government is concerned, it has no authority to interfere in the working of the Judiciary. ...*(Interruptions)*... The High Court alone is the authority to deal with their Judges and in the Supreme Court, the Chief Justice is the authority. We only mention to them the anguish shown in the Parliament or views expressed in the Parliament on administrative side. ...*(Interruptions)*... We always express what the hon. Members say. I also write to them; I also tell them and we discuss such things in joint conferences. Yes, the Judiciary is one of the institutions which is much more punctual than the Executive members. This is my own experience. The Judges enter the court right in time. Of course, some of them may disperse early. ...*(Interruptions)*...

MR. CHAIRMAN: There is evidently great interest of the hon. Members in this Question. I have 17 more requests pending. They obviously cannot be accommodated in the Question Hour. ...*(Interruptions)*... You can raise the subject separately and the House will consider it. ...*(Interruptions)*... Q. No. 183. ...*(Interruptions)*...

DR. T. SUBBARAMI REDDY: **

**Deleted as ordered by the Chair.

MR. CHAIRMAN: Three supplementaries and not more than that, Sir.

DR. T. SUBBARAMI REDDY: Sir, just to. ...*(Interruptions)*...

MR. CHAIRMAN: No, please. Q. No. 183.

'लिव-इन-रिलेशनशिप' के संबंध में कानून

†*183. **श्री प्रभात झा**: क्या **विधि और न्याय** मंत्री यह बताने की कृपा करेंगे कि:

(क) क्या यह सच है कि कुछ राज्यों ने 'लिव-इन-रिलेशनशिप' से संबंधित कानून पारित किए हैं और इन्हें अनुमोदन हेतु केन्द्रीय सरकार के पास भेजा है;

(ख) यदि हां, तो इस संबंध में सरकार की क्या राय है;

(ग) क्या सरकार भारतीय समाज और संस्कृति को ध्यान में रखते हुए ऐसे कानूनों को निरस्त करने पर विचार करेगी;

(घ) यदि हां, तो तत्संबंधी ब्यौरा क्या है; और

(ङ) यदि नहीं, तो इसके क्या कारण हैं?

विधि और न्याय मंत्री (श्री हंसराज भारद्वाज): (क) किसी राज्य सरकार से ऐसा प्रस्ताव प्राप्त नहीं हुआ है।

(ख) से (ङ) इस प्रक्रम पर प्रश्न ही नहीं उठता।

Laws on live-in relationship

†*183. SHRI PRABHAT JHA: Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether it is a fact that some States have passed laws relating to live-in relationship and sent the same to the Central Government for approval;

(b) if so, Government's views in this regard;

(c) whether Government would consider rejecting such laws, keeping in view the Indian society and culture;

(d) if so, details thereof; and

(e) if not, the reasons therefor?

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): (a) No such proposal has been received from any State Government.

(b) to (e) At this stage question does not arise.

श्री प्रभात झा: सभापति महोदय, मेरे प्रश्न का विधि और न्याय मंत्री ने जो उत्तर दिया है, वह तकनीकी दृष्टि से दिया है। मेरा प्रश्न है कि यह सच नहीं है कि कुछ राज्यों ने "लिव-इन-रिलेशनशिप" से संबंधित कानून पारित किए हैं और इन्हें अनुमोदन हेतु केन्द्रीय सरकार के पास भेजा है? आपने उत्तर दिया है कि ऐसा कोई प्रस्ताव नहीं है, जब कि मेरी जानकारी है कि केन्द्र सरकार ने जस्टिस मलीमथ के नेतृत्व में एक समिति का गठन किया था, जिसमें सीआरपीसी में सुधार करने के संबंध में निर्णय लिए गए थे और उसी में यह बात कही गई थी। क्या मुझे यह बताने की कोशिश करेंगे कि जस्टिस मलीमथ की रिपोर्ट में यह बात नहीं थी?

†Original notice of the question was received in Hindi.